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Client/Matter No.	31175413-005002				
Re	Examiner's Interview on March 7, 2007				
Pages (w/cover)	2				

Examiner Walicka, thank you for the interview and opportunity to comment.

I recommend:

¶4: "2) *E. coli* is enabled, but all cells are not."

¶5: "Applicants' position was that the genes to be used in the claimed method are sufficiently enabled by the activity of the protein they encode, because the genes are defined by their activity/function."

¶6: "Applicants will try to obtain such a statement, but note that the Idealibrary® site is no longer available and definitive proof may not be available."

Best regards,

Mike

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D:Michael Berger COMPANY:

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Page 2

Art Unit 1652

Regarding rejection of claims under 35 USC §112, second paragraph, the examiner suggested to amend preambles of claims 27 and 33 to contain "increase in acetyl-CoA flux" language.

Regarding rejection of the claims under 35 USC §112, first paragraph, the Examiner emphasized that

1) effects of reduced activity of *ackA* or *pta* are not necessary the same as that of double mutation of *ackA* and *pta* that was used by the inventor, and

2) *E. coli* is ~~not an organism identifying any cell, which is to be used in the claimed method.~~ *enabled by no other ~~old~~ bacteria are*

Applicants will consider the examiner's concerns. Furthermore, Applicants' position was that the genes to be used in the claimed method ~~do not need to be identified in any other way as~~ *are sufficiently* by the activity of the protein they encode for, because the ~~genes are defined by their activity/function.~~ *claims are not directed to the genes themselves.* However, the examiner indicated one has to define the things that he/she uses for a claimed method. Applicants offered to present a list of genes that are currently available for the invention.

Regarding rejection under 35 USC §103, Applicants position was that the prior art by San et al., 2003 was not available on the Internet on the date printed on the first page of the paper, but after priority date of the instant application. The examiner suggested that the Applicants provided a proof of that fact. For example a statement from the editor of Metabolic Engineering. Applicants will try to obtain such a statement, but

noted that the original web site is no longer available and definitive proof may not be available.